

*“Working for quality
and diversity in
British broadcasting”*

Founded in 1983 by Jocelyn Hay CBE



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Response from the Voice of the Listener & Viewer to Ofcom’s Consultation on

Spectrum Pricing: A framework for setting cost based fees

18 December 2013

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The Voice of the Listener & Viewer (VLV) is an independent, non-profit-making membership association, free from political, commercial and sectarian affiliations, working for quality and diversity in British broadcasting content. VLV represents the interests of listeners and viewers as citizens and consumers across the full range of broadcasting issues. VLV is concerned with the structures, regulation, funding and institutions that underpin the British broadcasting system. VLV is a charitable company limited by guarantee.

For 30 years VLV has played a unique role in keeping a citizen's eye on major legislative proposals and action taken by regulators and broadcasters, enabling the voice of consumers to be heard, independently from the interests of political parties, industry players and other pressure groups.

Summary

- We note the summary of the proposals described in this consultation.
- We welcome the description of the review process and note the statement in Clause 5.11.
- If there has to be a spectrum charge for public service spectrum pricing we cautiously welcome the use of an appropriate cost based formula and the avoidance of AIC.

1 Introduction

- 1.1 We welcome the opportunity to respond to Ofcom's consultation on a cost based approach We welcome to spectrum pricing. Our primary concern in this response is to reflect the interests of viewers and listeners and to support Public Service Broadcasting [PSB].
- 1.2 We note previous consultations and statements on spectrum pricing in general, as part of spectrum reviews and also specific reviews of spectrum used by terrestrial broadcasting services.
- 1.3 In particular we note the consultation on pricing for Terrestrial Broadcasting issued on 3rd March 2013 and the subsequent statement of 24th July 2013. We also note the current consultation on spectrum management published 2nd October 2013 to which we will respond separately.

- 1.4 We note that, before the introduction of digital terrestrial broadcasting technology [DTT] in the late 1990s, fees were charged for spectrum use under the Wireless Telegraphy Acts and regulatory regime then in force. These fees were substantial at about £1 million per channel per annum (see Clause 4.3 of the consultation); we assume that this is set at 2002 prices and unadjusted. This sets a precedent for charging spectrum access fees at all and also indicates a value for those fees at that time. The basis for calculating that value is not made clear and, being historic, it may no longer be appropriate.
- 1.5 However this precedent was applicable to the stable, decades long environment of the analogue era. We suggest that, until an equivalent stability exists for DTT, this precedent is not relevant. Indeed, it is arguable that, given the changes in demand for spectrum and the disruption this will cause for at least the next decade, such stability will not return and so a new model for pricing is required.
- 1.6 It is clear that during the transition from the analogue era to DTT, incentives were applied that included the suspension of spectrum access fees for DTT transmissions with a gradual reduction of analogue fees as DSO progressed. We understand that that suspension only applies until the end of the current licence period in 2014.
- 1.7 Licence fee payers have, in good faith, funded the BBC for a high quality service that is available nationwide. Any increase in spectrum access fees must come out of BBC revenue and hence from the licence fee. They have also paid for the new receivers required for DSO/DTT and some will be required to renew at least some part of their reception systems if the technical changes to the transmissions are made (i.e. DVBT-2/MPEG4). The level of consumer investment in DTT and PSB is far from trivial and due respect for that fact should be acknowledged.
- 1.8 Whilst it is arguable that all public services, including PSB, should in principle be free of spectrum access charges, the analogue precedent might suggest that this will not be the case. In the case of true PSB services, i.e. the BBC, they are funded through a licence fee set by government and paid by consumers – it is not a market based process. The mechanism clearly exists to subsume any spectrum fees into that licence fee. Nevertheless, it seems inevitable that some level of de facto access fee will be applied from 2015.
- 1.9 We therefore cautiously welcome the statement that defines an interim approach to spectrum fees for DTT and DAB until at least 2020. Specifically, we welcome the decision not to apply Administered Incentive Pricing (AIP) and agree that if any fees are to be charged they should be based on the cost of administering the spectrum used. We welcome this opportunity to comment on how that cost might be calculated.
- 1.10 In practice spectrum efficiency, if diligently pursued, is inseparable from quality of service; whilst the former is a desirable goal the latter must not suffer as a consequence. Some services are more vulnerable to this than others and so where any enforced erosion occurs it should be reflected in spectrum fees.
- 1.11 The access fee reflects all aspects of the licence to use the spectrum allocated to a particular service. This includes protection of that spectrum from contamination i.e.

spectrum that is dedicated solely to a service should be more expensive than one that is shared or subject to systematic interference from neighbouring bands.

- 1.12 If, as seems inevitable, DTT services and viewers are to be disrupted over the next 10 years during transitions to other spectrum allocations and technologies, and that these services are to be systematically subjected to more interference than hitherto, then any cost based fees, however calculated, should be discounted to compensate for degradation of the quality of service expected.
- 1.13 We believe that there is scope within the content of Clauses 3.29 to 3.35 to consider these suggestions but note also that in Clause 4.16 no such scope has been identified.
- 1.14 The remainder of our response is a section by section commentary on the consultation document.

2 Section 2

2.1 We note the background and purpose of this consultation and Ofcom's powers and duties.

2.2 We note the outline of Ofcom funding in Clauses 2.16 – 2.19 and the outcome of the SRSP 2010 in Clauses 2.20 et seq.

2.3 We welcome the inclusion of an Impact Assessment but concur that there is little if any impact of consequence other than the potential effect on the BBC licence fee. There are measures in place to deal with such an effect on vulnerable groups.

3 Section 3

3.1 We note the principles outlined here that are proposed for determining DTT fees. We note and welcome the three core principles of Clause 3.5.

3.2 We note and welcome the staged process proposed to analyse and attribute costs to activities and then to formulate a method of applying those costs to licence classes.

3.3 We note Figure 1 for its breakdown of costs according to activity. We also note the list of licence classes that are selected for cost based fee assessment.

3.4 We welcome the description of the fee setting methodology in Clauses 3.24 et seq.

4 Section 4: DTT Licence Fees

4.1 We note and understand the content of Clauses 4.1 to 4.12.

4.2 We note the breakdown illustrated by Figure 2 and note the differences between this and Figure 1. It is appropriate to use a relevant breakdown of costs as a basis for calculating fees.

4.3 We are disappointed to note Clauses 4.16 and 4.17. We conceded the point made in 4.17 about phasing in of fees.

4.4 We note the proposal to divide the total multiplex costs equally. Whilst the argument for this is sound and logical the fact that coverage varies across them, and hence the value of spectrum to the operators of the multiplexes also varies, there is scope for an adjustment to reflect this.

4.5 We understand and appreciate the treatment of the local multiplex fees and those applicable to the Northern Ireland case.

4.6 The implementation of the proposed new fees and the timing of the payment process is clear. It is appropriate to have a defined review process in relation to these fees.

4.7 Set against the per channel analogue access fees of £1 million per channel per annum (assumed unadjusted from 2002?) the proposed fees per multiplex per annum seem very reasonable and so in the circumstances it would seem churlish to object. However it is not entirely clear that the sums are comparable and so a confirmation for clarification would be useful.

4.8 The analogue fee was “per channel” where it is assumed that “channel” means 1 x 8 MHz block of bandwidth as allocated in the UHF. The delivery of a national service such as BBC One used many such channels in the UHF band implying a multiplied cost for that service. For the analogue services it would have been useful to have had sight of the total licence revenue paid by the BBC and ITV/Channel 4 and Channel 5 for their collective almost sole protected occupancy of the whole of the UHF from Channel 21 to 68.

4.9 In contrast, a single national multiplex also occupying a number of 8 MHz slots carries more than one service so that the fee reduces on a per service basis. To incentivise spectrum efficiency it is assumed that the fee is charged purely on spectrum deployed and not on the services carried.

4.10 Clearly in modern pricing terms the analogue model does not apply for a number of obvious reasons. Whilst spectrum costs do resolve naturally to a per multiplex cost it might have been better, at least for the avoidance of doubt, to declare the total costs to a given broadcaster in the form of an illustratory example.

4.11 Question 2: Do you have any comments on our proposed licence fee for national DTT multiplex operators?

4.11.1 We have no specific comment. See above.

4.12 Question 3: Do you have any comments on our proposed licence fee for the local TV multiplex operator?

4.12.1 We have no specific comment. See above.

4.13 Question 4: Do you have any comments on our proposed licence fee for the Northern Ireland DTT multiplex?

4.13.1 We have no specific comment. See above.

4.14 Question 5: Do you have any general comments on our approach for implementing the proposed licence fees?

4.14.1 See above.

BASIC DETAILS

Consultation title **Spectrum pricing: A framework for setting cost based fees**

To (Ofcom contact): costbasedfees@Ofcom.org.uk

Name of respondent: Dinah Garrett

Representing (self or organisation/s): Voice of the Listener & Viewer

Address (if not received by email):

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Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing Name/contact details/
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Whole response Organisation

Part of the response If there is no separate annex, which parts?

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Name Dinah Garrett, Trustee Signed (if hard copy)

Trustee, Voice of the Listener & Viewer 18 December 2013